

Floor Amendment To LB106

Introduced by Janssen, 15

3 Section 1. Section 77-4001, Reissue Revised Statutes of 4 Nebraska, is amended to read: 5
77-4001 Sections 77-4001 to 77-4025 and section 4 of this 6 act shall be known and may be cited as
the Tobacco Products Tax 7 Act. 8 Sec. 2. Section 77-4002, Reissue Revised Statutes of 9 Nebraska,
is amended to read: 10 77-4002 For purposes of the Tobacco Products Tax Act, 11 unless the context
otherwise requires, the definitions found in 12 sections 77-4003 to 77-4007 and section 4 of this act
shall be 13 used. 14 Sec. 3. Section 77-4004, Reissue Revised Statutes of 15 Nebraska, is amended to
read: 16 77-4004 First owner shall mean means any person: 17 (1) Engaged in the business of selling
tobacco products 18 or smoking tobacco in this state who brings or causes to be brought 19 into this
state from outside this state any tobacco products or 20 smoking tobacco for sale in this state,
including a retailer who 21 purchases directly from suppliers outside this state who are not 22 licensed
pursuant to subsection (2) of section 77-4009; 23 (2) Who makes, manufactures, or fabricates tobacco
products or smoking 1 tobacco in this state for sale in this state; 2 or 3 (3) Engaged in business outside
this state who ships 4 or transports tobacco products or smoking tobacco to retailers in 5 this state and
who becomes licensed pursuant to subsection (2) of 6 section 77-4009. 7 Sec. 4. Smoking tobacco
means (1) cigars, (2) cheroots, 8 (3) stogies, (4) periques, and (5) granulated, plug cut, crimp cut, 9
ready rubbed, and other tobacco prepared in such manner as to be 10 suitable for smoking, except that
smoking tobacco does not mean 11 cigarettes as defined in section 77-2601. 12 Sec. 5. Section
77-4007, Reissue Revised Statutes of 13 Nebraska, is amended to read: 14 77-4007 Tobacco products
shall mean (1) cigars, (2) 15 cheroots, (3) stogies, (4) periques, (5) granulated, plug cut, 16 crimp cut,
ready rubbed, and other smoking tobacco, (6) means (1) 17 snuff, (7) (2) snuff flour, (8) (3) cavendish,
(9) (4) plug and 18 twist tobacco, (10) (5) fine cut and other chewing tobacco, (11) 19 (6) shorts,
refuse scraps, clippings, cuttings, and sweepings of 20 tobacco, and (12) (7) other kinds and forms of
tobacco, prepared 21 in such manner as to be suitable for chewing, or smoking in a pipe 22 or
otherwise or both for chewing and smoking, except that tobacco 23 products shall does not mean
cigarettes as defined in section 24 77-2601. 1 Sec. 7. Section 77-4009, Reissue Revised Statutes of 2
Nebraska, is amended to read: 3 77-4009 (1) Each first owner of tobacco products and 4 smoking
tobacco to be sold in this state shall be licensed by 5 the Tax Commissioner. Every application for
such license shall be 6 made on a form prescribed by the Tax Commissioner. The application 7 shall
include: (a) The name and address of the applicant or, if 8 the applicant is a firm, partnership, limited
liability company, or 9 association, the name and address of each of its members or, if 10 the applicant
is a corporation, the name and address of each of 11 its officers and the address of its principal place of
business; 12 (b) the location of the place of business to be licensed; and (c) 13 such other information
as the Tax Commissioner may require for the 14 purpose of administering the Tobacco Products Tax
Act. 15 (2) A person outside of this state who ships or 16 transports tobacco products or smoking
tobacco to any person 17 in this state to be sold in this state may make application for a 18 license and
be granted such a license by the Tax Commissioner. If 19 a license is granted, such person shall be
subject to the Tobacco 20 Products Tax Act and shall be entitled to act as a licensee. 21 A person
outside this state who receives a license shall have 22 established sufficient contact with this state for
the exercise 23 of personal jurisdiction over the person in any matter or issue 24 arising under the act.
25 Sec. 8. Section 77-4014, Reissue Revised Statutes of 26 Nebraska, is amended to read: 27 77-4014
(1) On or before the tenth day of each calendar month commencing on or after 1 January 1, 1988,
every person licensed 2 under subsection (1) of section 77-4009 shall file a return with 3 the Tax
Commissioner showing either the quantity and the price of 4 each tobacco product or smoking tobacco
brought or caused to be 5 brought into this state for sale or the quantity and the price 6 of each tobacco
product or smoking tobacco made, manufactured, 7 or fabricated in this state for sale in this state,
whichever 8 is applicable, during the preceding calendar month. For tobacco 9 products, such return
shall also include the net weight as listed 10 by the manufacturer. 11 (2) Every person licensed
pursuant to subsection (2) of 12 section 77-4009 shall, in the manner described in subsection (1) of 13

this section, file a return showing in detail the different kinds, 14 quantity, and wholesale sales price of each tobacco product or 15 smoking tobacco shipped or transported to retailers in this state 16 to be sold by such retailers during the preceding calendar month. 17 For tobacco products, such return shall also include the net weight 18 as listed by the manufacturer. 19 (3) Returns shall be made upon forms furnished and 20 prescribed by the Tax Commissioner. Each return shall be 21 accompanied by a remittance for the full tax liability shown, less 22 an amount of such liability equal to any amount allowed a payer of 23 the sales and use tax pursuant to subdivision (1)(d) of section 24 77-2708 as compensation to reimburse the licensee for his or her 25 expenses incurred in complying with the Tobacco Products Tax Act. 26 Sec. 9. Section 77-4017, Reissue Revised Statutes of 27 Nebraska, is amended to read: 1 77-4017 (1) Every licensee shall keep complete and 2 accurate records for all places of business, including itemized 3 invoices of tobacco products and smoking tobacco (a) held, 4 purchased, manufactured, or brought in or caused to be brought 5 into this state or (b) for a licensee located outside of this 6 state, shipped or transported to retailers in this state. For 7 tobacco products, such return shall also include the net weight as 8 listed by the manufacturer. 9 (2) All books, records, and other papers and documents 10 required to be kept by this section shall be preserved for a period 11 of at least three years after the due date of the tax imposed 12 by the Tobacco Products Tax Act unless the Tax Commissioner, in 13 writing, authorizes their destruction or disposal at an earlier 14 date. 15 (3) At any time during usual business hours, duly 16 authorized agents or employees of the Tax Commissioner may enter 17 any place of business of a licensee and inspect the premises, 18 the records required to be kept pursuant to this section, and 19 the tobacco products and smoking tobacco contained in such place 20 of business for purposes of determining whether or not such 21 licensee is in full compliance with the act. Refusal to permit 22 such inspection by a duly authorized agent or employee of the 23 Tax Commissioner shall be grounds for revocation, cancellation, or 24 suspension of the license. 25 Sec. 10. Section 77-4018, Reissue Revised Statutes of 26 Nebraska, is amended to read: 27 77-4018 When tobacco products or smoking tobacco for 1 which the tax imposed by the Tobacco Products Tax Act has been 2 reported and paid are (1) sold, shipped, or transported by the 3 licensee to retailers, licensees, or ultimate consumers outside 4 this state or (2) returned to the manufacturer by the licensee, a 5 refund or credit of the tax shall be made to the licensee. For the 6 purpose of making such credit or refund, the Tax Commissioner may 7 issue a tax credit or may prepare a voucher showing the net amount 8 of such refund due. The Tax Commissioner shall have a warrant 9 drawn upon the State Treasurer for the amount of any such refund 10 certified by the Tax Commissioner. 11 Sec. 11. Section 77-4024, Reissue Revised Statutes of 12 Nebraska, is amended to read: 13 77-4024 Any person who violates the Tobacco Products Tax 14 Act or any person who sells, delivers, or accepts tobacco products 15 or smoking tobacco with the intent to evade the act shall be guilty 16 of a Class IV felony. 18 Sec. 13. Original sections 77-4001, 77-4002, 77-4004, 19 77-4007, 77-4008, 77-4009, 77-4014, 77-4017, 77-4018, and 77-4024, 20 Reissue Revised Statutes of Nebraska, are repealed.